

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IRVIN BANOS
Plaintiff,

v.

TORRY STEVENSON AND
BIG M TRANSPORTATION, INC.
Defendants

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Civil Action No. 1:15-cv-301

DEFENDANTS TORRY STEVENSON AND BIG M TRANSPORTATION, INC.'S
NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants TORRY STEVENSON AND BIG M TRANSPORTATION, INC. hereby removes this action from the 53RD Judicial District Court of Travis County, Texas to this Court. In support of this removal, Defendants shows the following:

I.
INTRODUCTION

1. On March 10, 2015, Plaintiff IRVIN BANOS filed his Original Petition in the 53rd Judicial District Court of Travis County, Texas, captioned *Irvin Banos v. Torry Stevenson and Big M Transportation, Inc.*, Cause No. D-1-GN-15-000920 (the “State Court Action”).

2. Defendants TORRY STEVENSON and BIG M TRANSPORTATION, INC. were served with citation for the State Court Action on March 21 and March 19, 2015, respectively.

II.
BASIS FOR REMOVAL

3. This Court has original jurisdiction over the State Court Action, pursuant to 28 U.S.C. § 1332(a), because it is a civil action between citizens of different states where the matter

in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Accordingly, complete diversity of citizenship exists.

4. On the date of this removal and at all relevant times, Plaintiff Irvin Banos is an individual resident of Austin, Travis County, Texas.

5. In the State Court Action, Plaintiff sued Defendants TORRY STEVENSON and BIG M TRANSPORTATION, INC. On the date of this removal and at all relevant times, Defendant TORRY STEVENSON is a resident of Aberdeen, Monroe County, Mississippi. Defendant BIG M TRANSPORTATION, INC. Steel Studio is also citizen of the state of Mississippi because it is a Mississippi corporation with its principal place of business in the state of Mississippi.

6. The amount in controversy, based on the damages sought by Plaintiffs in the State Court Action, exceeds the sum or value of seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

7. Therefore, pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over this action.

8. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a), which allows for the removal of any civil action brought in a state court of which the District Courts of the United States have original jurisdiction, by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

9. This Notice of Removal is being filed within thirty (30) days after service (on June 17, 2013) by Defendants of the State Court Action. This Notice of Removal is also being filed within one year of the filing of Plaintiff's Original Petition by which the State Court Action was commenced. This Notice, therefore, is timely filed pursuant to 28 U.S.C. § 1446(b).

**III.
PROCEDURAL REQUIREMENTS**

10. In accordance with 28 U.S.C. § 1446(d), Defendants will promptly give written notice of this Notice of Removal to Plaintiff through counsel of record and file a copy of this Notice of Removal in the 126th Judicial District Court of Travis County, Texas.

11. Defendants reserve the right to amend or supplement this Notice of Removal.

12. The following are included in the Appendix filed contemporaneously with this Notice of Removal:

- (a) an index of all documents that clearly identifies each document and indicates the date the document was filed in the State Court Action;
- (b) a copy of the docket sheet in the State Court Action;
- (c) a copy of each document filed in the State Court Action, except discovery material, individually tabbed and arranged in chronological order according to the state court filing date; and
- (d) a separately filed Supplement to JS 44 Civil Cover Sheet for Cases Removed from State District Court.

For the above reasons, Defendants give notice of the removal of the State Court Action to this Court and respectfully request that this action proceed before this Court as though it had originally been instituted in this Court.

Dated: April 17, 2015

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS
TERRY STEVENSON and BIG M
TRANSPORTATION, INC.

CERTIFICATE OF SERVICE

I certify that on this the 17th day of April, 2015, a true and correct copy of the foregoing was served on the following counsel of record:

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